



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCC/143963

PRELIMINARY RECITALS

Pursuant to a petition filed September 20, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on November 08, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly terminated the Petitioner's BadgerCare Plus Core Plan benefits effective August 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Mary Hartung
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 11, 2012, the agency issued a notice to the Petitioner that her renewal for BadgerCare Plus Core Plan must be completed by July 31, 2012 in order to have benefits continued. The notice was issued to the Petitioner at [REDACTED] [REDACTED]

3. On June 27 and June 28, 2012, the agency issued notices to the Petitioner at [REDACTED] [REDACTED] notifying her that a renewal interview was scheduled for July 6, 2012.
4. On July 6, 2012, the agency attempted to contact the Petitioner and left a voicemail message telling the Petitioner to complete her renewal.
5. On July 18, 2012, the agency issued a Notice of Decision to the Petitioner at [REDACTED] [REDACTED] notifying her that her Badger Care Plus Core benefits would end effective August 1, 2012 if she did not complete her renewal by July 31, 2012. It also notified her that she could appeal the agency decision with the Division of Hearings and Appeals by filing an appeal by September 17, 2012.
6. On September 6 and 7, 2012, the Petitioner contacted the agency indicating that she learned her BadgerCare Plus Core benefits had been discontinued. The agency verified the Petitioner's phone number and address at that time. The agency informed the Petitioner that she could file an appeal.
7. On September 20, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning Medicaid, including BadgerCare Plus Core, must be filed within 45 days of the date of the action. Wis. Stats. § 49.45(5). A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed 48 days after the date of the action.

The Petitioner testified at the hearing that she did not receive any of the notices the agency sent to her about her renewal or termination of benefits. She testified she did not receive any phone message from the agency about a renewal. She testified that the first she learned that her benefits had been terminated was on September 6, 2012 when she attempted to get a prescription filled and it was denied. She contacted the agency that day and learned that her benefits had been terminated for failure to complete her renewal.

The Petitioner testified that she has had some difficulties with her mail. She stated that she sometimes gets a neighbor's mail and she wonders if her mail is sometimes delivered to someone else. She stated this has been a problem for some time and it continues to be a problem. The Petitioner did not present any evidence to support her testimony.

The Petitioner did receive the notice of hearing that was issued regarding this appeal.

Overall, I conclude that the Petitioner's testimony is not credible that she did not receive any of the four notices that were mailed to her proper address and did not receive the voice message left at the proper phone number. Even after contacting the agency and being told she could file an appeal, the Petitioner did not do so for two weeks. Therefore, I conclude she had sufficient notice regarding the renewal and termination of her benefits but failed to complete the renewal and failed to file an appeal within a timely manner.

CONCLUSIONS OF LAW

The Petitioner's appeal was not filed in a timely manner. In addition, the agency provided sufficient notice to the Petitioner of the need to complete her renewal and termination of benefits if the renewal was not completed by July 31, 2012.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

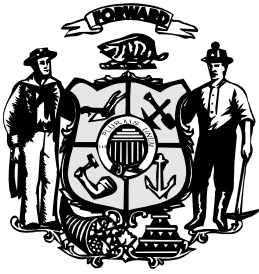
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of December, 2012

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 10, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability